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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,883	09/26/2007	Joachim Lohr	L7725.06128	5629
52980	7590	03/31/2011		
Dickinson Wright PLLC James E. Ledbetter, Esq. International Square 1875 Eye Street, N.W., Suite 1200 Washington, DC 20006			EXAMINER	
AHMED, ENAM				
ART UNIT			PAPER NUMBER	
2112				
MAIL DATE			DELIVERY MODE	
03/31/2011			PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/594,883

**Applicant(s)**

LOHR ET AL.

**Examiner**

ENAM AHMED

**Art Unit**

2112

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 30 and 32-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30, 32, 33, 35-37 and 50-52 is/are rejected.
- 7) ☒ Claim(s) 34 and 38-49 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/13/10
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Non – Final

This office action is in response to applicant's amendment after-final filed on 2/24/11.

Response to applicant's arguments

1. Applicant's arguments with respect to claims 30, 51 and 52 have been considered but are moot in view of the new ground(s) of rejection.

35 U.S.C. 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 30, 32, 33, 35, 36, 37, 50, 51 and 52 are rejected under 35 U.S.C. 102(e)  
as being unpatentable over Lee et al. (U.S. Pub. No. 2005/0058154).

With respect to claims 30, 51 and 52 the Lee et al. reference teaches transmitting a data packet from the mobile terminal to the base station via a first data channel ([0122] – The reverse supplemental channel 1 is the first channel), receiving a feedback message from the base station at the mobile terminal, wherein the feedback message indicates whether the data packet has been successfully received by the base station ([0124] – A nack is received from the receiving end to the transmitting end), and in case the feedback message indicates that the data packet has not been received successfully, transmitting the retransmission data packet from the mobile terminal to the base station via a second data channel ([0122] and [0131] – data packet is retransmitted through a reverse supplemental channel 2, based on the nack), wherein a transmission time interval of the first data channel is smaller than a transmission time interval of the second data channel ([0112] – clear the first time interval here which is the initial transmission, is smaller than the second time interval which is the retransmission).

With respect to claim 32, the Lee et al. reference teaches determining the transmission power for a retransmission of the data packet, in case the feedback message indicates that the data packet has not been received successfully ([0112] – the retransmission power can be adjusted), and wherein the retransmission data packet is transmitted at a transmission power lower than the transmission power of the transmitted data packet ([0136] – this can be adjusted as well in order to match the initial transmission power).

With respect to claim 33, the Lee et al. reference teaches subsequently reducing the transmission power for subsequent retransmission data packets that are sent for the unsuccessfully received data packet ([0114 – 0115] – subsequent reduction of transmission power can be implemented or adjusted as well).

With respect to claim 35, the Lee et al. reference teaches selecting in the mobile terminal the transmission power for the transmission of the retransmission data packet based on or considering at least one of a measured channel quality, power control commands received from the base station, and an additional diversity and processing gain obtained by using a longer transmission time interval on the second data channel ([0114 – 0115]).

With respect to claim 36, the Lee et al. reference teaches wherein the retransmission data packet and the transmitted data packet comprise the same payload ([0112]).

With respect to claim 37, the Lee et al. reference teaches wherein the retransmission data packet is transmitted by the mobile terminal after a predetermined time span upon having received said feedback message ([0102], [0204] and [0136]).

With respect to claim 50, the Lee et al. reference teaches wherein the data packet and the retransmission data packet are transmitted via dedicated transport channels ([0249]).

#### Allowability

3. Claims 34 and 38-49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Enam Ahmed whose telephone number is 571-270-1729. The examiner can normally be reached on Mon-Fri from 8:30 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman, can be reached on 571-272-3644.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more

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information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EA

3/25/11

/Scott T Baderman/

Supervisory Patent Examiner, Art Unit 2114